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HOUSE OF REPRESENTATIVES

REPORT
100-86

VETERANS' ADMINISTRATION STATE HOME PROGRAM AMENDMENTS OF 1987

MAY 7, 1987.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. MONTGOMERY, from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany H.R. 1659]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 1659) to amend title 38, United States Code, to increase the per diem rates for payments by the Veterans' Administration to States for domiciliary care and nursing home care provided to veterans in State homes, and for other purposes, having considered the same, reports favorably thereon with amendments, by unanimous voice vote, and recommends that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follow:

Page 2, line 2, strike out "domiciliary care" and insert in lieu thereof "hospital care, domiciliary care,".

Amend the title so as to read: "A bill to amend title 38, United States Code, to increase the per diem rates for payments by the Veterans' Administration to States for hospital care, domiciliary care, and nursing home care provided to veterans in State homes, and for other purposes.".

INTRODUCTION

The Subcommittee on Hospitals and Health Care held a hearing on April 22, 1987 on legislation concerning certain aspects of the Veterans' Administration's health care programs, including H. R. 1659, which would affect the VA's State Veterans' Home Program. Testimony was received from the Veterans' Administration, the National Association of State Veterans Homes, the National Asso-

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ciation of VA Physicians, the Nurses Organization of the VA, and veterans' service organizations.

On April 22, 1987, the Subcommittee unanimously recommended H. R. 1659, as amended, to the full Committee. On April 23, 1987, the full Committee unanimously ordered H.R. 1659, as amended, to be reported to the House.

Summary of the Bill

H. R. 1659, as amended, would increase the per diem rates for payments by the Veterans' Administration to States for hospital care, domiciliary care, and nursing home care. The per diem rate for domiciliary care would be increased from $7.30 to $9.00; the per diem rate for nursing home care would be increased from $17.05 to $20.35; and, the per diem rate for hospital care would be increased from $15.25 to $20.35.

H.R. 1659, as amended, would also make a technical change to specifically permit the VA to award grants to States for the construction of State veterans' homes between July 1, 1987 and the end of fiscal year 1987. This three-month period follows the July 1 effective date for the transition to the priority-list basis for grant awards mandated by Public Law 99–576.

Background and Discussion of the Bill

The Veterans' Administration State Veterans' Home Program assists States through two grant-in-aid programs. First, the VA makes per diem payments for care provided to eligible veterans in recognized State veterans homes. The payments are for up to one-half the cost of care, under current law not to exceed $7.30 per diem for domiciliary care; $17.05 per diem for nursing home care; and, $15.25 per diem for hospital care.

Second, the VA may provide up to 65 percent of the cost of constructing or acquiring domiciliary or nursing home care facilities and up to 65 percent of the cost of remodeling existing buildings for the provision of domiciliary, nursing home or hospital care in State homes.

Per Diem Payments

In Public Law 86–625, enacted in 1960, the method of payments to States for providing care to veterans in State homes was changed from a per annum rate to a per diem rate. The rate established was $2.50 per diem for both domiciliary and hospital care. Public Law 88–450, enacted in 1964, authorized nursing home care to be provided in State homes at a per diem rate of $3.50. Effective April 1, 1984, with the enactment of Public Law 98–160, the current State home per diem rates were set at $7.30 for domiciliary care, $17.05 for nursing home care, and $15.25 for hospital care.

In testimony before the Subcommittee, the National Association of State Veterans Homes reported that the current rate for domiciliary care represented 18.04 percent of average State home costs in fiscal years 1985-86 and 17.05 percent in fiscal years 1986-87. For nursing home care, the rate represented 23.85 percent of costs in fiscal years 1985-86 and 22.54 percent in fiscal years 1986-87. For

hospital care, the rate represented 8.51 percent of costs in fiscal years 1985-86 and 8.05 percent in fiscal years 1986-87.

On October 2, 1986, the VA submitted, pursuant to the requirements of title 38, U.S.C., section 641, a report on the adequacy of the current State home per diem rate, but limited this report to State nursing home care. The planned, increased reliance by the VA on State nursing homes to meet projected needs from the aging veteran population was included in the report. In addition, the costs of State nursing home care were projected to increase by approximately 5.8 percent over the next five years, yielding a decreasing proportion of those costs that would be met by the current per diem rate. According to the VA report, the proportion of State nursing home costs that would be met by the current per diem rate would fall approximately one percent each year from 1987 through 1991. Notwithstanding the information presented in the report, the VA, in response to a direct query from the Chairman on December 29, 1986, stated that no increase in the State nursing home per diem was recommended.

The reported bill would raise the per diem rates to $9.00 for domiciliary care and to $20.35 for nursing home and hospital care. This would bring the percentage of the average cost of State home care reimbursed by the VA to approximately 20 percent for domiciliary care, 25.43 percent for nursing home care, and 10.15 percent for hospital care for fiscal years 1987-88.

The committee believes that emphasis on nursing home care is appropriate in light of the added reliance by the VA on State homes to provide nursing home care for veterans. In addition, the committee believes that the current supply of nursing home beds and the projected new VA-owned-and-operated nursing home beds will clearly be inadequate to meet the need for nursing home care that will be required by the aging veteran population.

Construction, Acquisition and Renovation Grant Awards

As of April 1987, 35 States had established State homes. Since some States have more than one home, there is a total of 55 homes.

A major revision in the State Home Program resulted from the enactment of Public Law 88-450, effective August 19, 1964. To further encourage the States to provide nursing home care beds, the act authorized a 5-year program, supported by an appropriation of $5 million per year, of matching grants to States for the construction of additional State home facilities to furnish nursing home care to war veterans. The VA was authorized to provide up to 50 percent of the cost of constructing nursing homes.

In 1969, Public Law 91-178 expanded grants to States for assistance in remodeling, modification, or alteration of existing hospital or domiciliary facilities in State homes providing care and treatment for veterans. Public Law 93-82, enacted in 1973, changed the maximum VA grant amount from 50 percent to 65 percent of total project cost and limited the total number of beds that a State could establish under the grant program to two and one-half per 1,000 veteran population of a State. In 1977, Public law 95-62 expanded the program by redefining construction to mean new domiciliary or nursing home buildings and the expansion, remodeling, and alteration of existing buildings for the provision of domiciliary, nursing

home, or hospital care in State homes. That act also provided initial equipment for such buildings. The act changed the veteran occupancy requirement in State homes receiving a construction grant from 90 percent to 75 percent. It also changed the amount that any one State might receive in any fiscal year to one-third of the amount appropriated in that fiscal year. Public Law 96-151 removed the $15 million limitation on amounts authorized for construction grants.

Public Law 96-330, enacted in 1980, removed the limitation of two and one-half beds per 1,000 veteran population in a State. In 1984, the Congress enacted Public Law 98-528, which permitted States to acquire existing buildings for use as State home facilities as long as the costs of acquisition plus renovation do not exceed the cost of equivalent new construction.

The VA's State Home Grant Program has been considered by the committee and the Congress to be an initiative of the States, implying that a State is entitled to a grant for which it properly applies when sufficient funds are appropriated by the Congress to award the grant. Since 1975, the amount of funds sought by States for eligible projects has substantially outstripped the funds appropriated by the Congress. As a result, the Veterans' Administration had adopted a practice of ranking grant applications according to the date on which the State files a formal "preapplication" for the grant.

A "preapplication" procedure has been uniformly adopted by the Federal Government in all Federal grant programs except those Federal formula grant programs which do not require grantees to apply for Federal funds on a project basis. Office of Management and Budget Circular A-102 (revised January 1981) includes examples of preapplication forms and information on the general requirements applicable to preapplications. The preapplication process is designed to establish communication between the Federal grantor agency (in the case of the State Veterans Home Program, the Veterans' Administration) and the applicant's eligibility (the State in the case of the State Veterans Home Program), and to eliminate proposals which do not meet grant program requirements before applicants incur significant expenditures for preparing an application.

In addition to the preapplication screening done by the VA, a number of other conditions and requirements apply to States seeking construction grant funds. The Intergovernmental Cooperation Act of 1968 requires State and areawide clearinghouse review of proposed projects. The clearinghouse review process is set forth in Part I of Office of Management and Budget Circular A-95, and is intended to encourage coordination of Federal grant programs with State and local planning efforts to promote orderly growth and development. The clearinghouse process also permits an opportunity for enforcement of the National Environmental Policy Act of 1969 by concerned State and local agencies.

However, by April 30, 1985, there were 68 eligible preapplications and applications pending with the Veterans' Administration. The total estimated cost of these projects to the Federal Government was approximately $181 million. Unobligated balances of funds appropriated totaled approximately $48 million, leaving $133

million of eligible preapplications to be funded by appropriations in future fiscal years.

In response to this situation, Public Law 99–166 required the Administrator to defer approval of a project that had been provided a notice of approval for funding if, by July 1 following such notice of approval, the State financial support had not been provided. Any project that is passed over would be placed on the list—ahead of all projects not approved before the end of the fiscal year in which it was passed over—for funding in the next fiscal year, but would be subject to being passed over again if the project is not ready for funding by July 1 of that fiscal year. The Explanatory Statement accompanying the legislation enacted as Public Law 99–166 stated: ". . . the committee's view is that States must be ready to proceed when the VA is ready to make the grant so that it will not be necessary to carry over funds from one fiscal year to another". In addition, the Administrator would be required to apply the funds from projects passed over to any nursing home project on the list of projects whose preapplication has been approved. The Administrator would be allowed to select such project based on need pursuant to guidelines established by the Administrator.

Public Law 99–576 made further modifications to the requirements related to the award of grants to States. First, it removed the restriction that a State may receive no more than one-third of the amount appropriated for grants in any one fiscal year. Second, it eliminated the basis for a VA interpretation that current law required that grants be awarded in order of the date on which applications are received. Third, it required that, effective July 1, 1987, the Administrator award grants according to a list of grant applications, in priority order, established as of July 1 of each year. The priorities are as follows: First, applications for which the State portions of the funding for the projects have been appropriated by the State and are available; second, applications from States that do not have any State home facilities; third, applications from States that have the greatest need for nursing home or domiciliary beds as determined by criteria and procedures specified by the Administrator in regulations; and, fourth, applications meeting any other criteria as determined by the Administrator and specified in regulations. A grant for a hospital facility expansion project can be awarded only after all nursing home and domiciliary projects are funded. In explanatory language accompanying the bill enacted as Public law 99–576, there was specific note that no change was intended to the law regarding deferral of a current fiscal year approval of an application when the State has not provided adequate financial support for construction of the project by July 1.

Public Law 99–576 did not specifically address applications approved between July 1 and September 30 (the end of the fiscal year) for fiscal year 1987, the transition year between the award of grants based on "first-in/first-out" method and the priority list method. The statutory language reads: "The Administrator shall award grants in order of their priority on the list during the fiscal year beginning on October 1 of the calendar year in which the list was made."

The reported bill addresses this oversight by providing specific authority to award grants during the last quarter of fiscal year

1987 based on the priority order established on July 1 of 1987. Testimony received by the committee suggested that fourth quarter grants be awarded according to the first in/first out method. The rationale was that certain States had been advised of the likely availability of funds for fiscal year 1987 on October 1, 1986 (the first day of fiscal year 1987) and might not be able to complete the grant application by July 1. In addition, it was argued that such a State might fall so low on the July 1, 1987 priority list that future funding would be very unlikely.

The committee believes that the intent of Congress manifested in Public Laws 99–166 and 99–576 was to move toward a State home program focused on States that show evidence of interest in a State home (i.e., funds are appropriated for the State share of the grant), on States with a need for such homes (i.e., States with no State home) and on States with the need for such homes as determined by the Administrator.

The emphasis on a State's having made available the State portion of the grant in both laws is further evidence of Congressional intent to change to a priority award procedure. State officials responsible for the program have known since December of 1985 that, without the appropriation of the State portion of the grant by July 1 following the notice of availability of funds, their grant application was subject to being passed over. Certain States had ten months of further advance notification of possible pass-overs through notice of possible availability of funds on October 1, 1986. The difference resulting from Public Law 99–576 is that a passed-over grant would not automatically be placed at the top of the following fiscal year list. Notwithstanding this difference, the opportunity exists for the VA to protect such a State: specific identification of a State that had been passed over can be contained in the third general priority category of need for State veterans homes. The regulations for this third category of need are required to be promulgated by the Administrator.

Oversight Findings

No oversight findings have been submitted to the committee by the Committee on Government Operations.

CBO Cost Estimate

The following letter was received from the Congressional Budget Office concerning the cost of H.R. 1659.

Congressional Budget Office Cost Estimate

U.S. Congress,
Congressional Budget Office,
Washington, D.C. April 6, 1987.

Hon. G. V. Montgomery,
Chairman, Committee on Veterans' Affairs,
U.S. House of Representatives,
Washington, D.C.

Dear Mr. Chairman:

In response to your request, CBO has prepared the attached cost estimate for H.R. 1659, a bill to increase the per diem rates for payments by the Veterans' Administration to States for hospital care, domiciliary care, and nursing home care provided to veterans in State homes. This bill was introduced in the House of Representatives on March 17, 1987 and has subsequently been amended in Committee.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

Edward M. Gramlich,
Acting Director

Congressional Budget Office Cost Estimate

1. Bill number: H.R. 1659.
2. Bill title: None.
3. Bill status: As introduced in the House of Representatives, March 17, 1987.
4. Bill purpose: H.R. 1659, a bill to increase the per diem rates for payments by the Veterans' Administration to States for hospital care, domiciliary care, and nursing home care provided to veterans in State veterans' homes.
5. Estimated Cost to the Federal Government:

(By fiscal year, in millions of dollars)

	1988	1989	1990	1991	1992
Estimated authorization level	14	14	14	14	14
Estimated outlays	14	14	14	14	14

The cost of this bill would fall in budget function 700.

Basis of Estimate

This bill would increase the per diem reimbursement rate paid to State home hospitals from $15.25 to $20.35, the rate for State home domiciliaries from $7.30 to $9.00, and the rate for State home nursing homes from $17.05 to $20.35.

In fiscal year 1986, the average daily census of VA-sponsored patients in State home hospitals was 510. Based on historical trends, this census level is projected to remain about the same through 1992. The average daily census of VA-sponsored patients in State home domiciliaries in fiscal year 1986 was 4,322. The number of State domiciliary patients is expected to decline to about 4,000 by 1992. There were 8,030 VA-sponsored patients in State home nursing homes in 1986 on an average daily basis. This number is expected to increase to around 8,400 by 1992. The projected census levels for each type of care, multiplied by 365 days per year, were then multiplied by the increase in the per diem payment rate to derive the increase in cost that would result from enactment of this bill.

6. Estimated cost to State and local governments: The income of these State-operated facilities would rise by the amount of the increase in VA payments.

7. Estimate comparison: None.

8. Previous CBO estimate: On February 20, 1987, CBO provided the committee with a cost estimate of a draft proposal to increase per diem rates for domiciliary and nursing home care in State veterans' homes. The draft proposal provided a smaller increase in the rate for domiciliary care than would be provided by H.R. 1659, and no change was made in the rate for hospital care. The cost of the draft proposal was estimated at $12 million per year.

9. Estimate prepared by: K.W. Shepherd (226-2820).

10. Estimate approved by:

C.G. Nuckols,

(for James L. Blum, Assistant Director for Budget Analysis)

Committee Cost Estimate

The committee agrees with the cost estimate submitted by the Congressional Budget Office.

Inflationary Impact Statement

The reported bill would have no inflationary impact.

Agency Report

On March 30, 1987, the Committee requested the official views of the VA on H.R. 1659. When the report was filed, the Committee had not yet received such views.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 641 OF TITLE 38, UNITED STATES CODE

§641. Criteria for payment

(a) The Administrator shall pay each State at the per diem rate of——

(1) [$7.30] *$9.00* for domiciliary care,
(2) [$17.05] *$20.35* for nursing home care, and
(3) [$15.25] *$20.35* for hospital care,

for each veteran receiving such care in a State home, if such veteran is eligible for such care in a Veterans' Administration facility.

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